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Application No. 08/065,757
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REMARKS

At the outset, the Examiner is thanked for the assistance given during a telephonic conference with the undersigned on April 10, 2006. Also, Applicants note with appreciation the Examiner's indication that claims 45-48 are allowable, and claims 39 and 40 would be allowed if rewritten and amended to overcome the rejection under Section 112, second paragraph.

Prior to the present response, claims 6, 8, 10-11, 39-42 and 45-50 were pending. By this amendment, claims 6, 8, 10, 11, 49 and 50 are cancelled. Accordingly, claims 39-42 and 45-48 shall be pending for consideration upon entry of the above amendments. Reconsideration and allowance of the present application is respectfully requested in view of the foregoing amendments and the following remarks.

Applicant submits herewith a PTO Form-1449 listing the LePage article and the Chemical abstract cited in the Information Disclosure Statement filed 22 April 2004, as the Examiner required on page 2 of the Action. It is requested that the Examiner return a copy of this form to Applicant, including her initials by the citations to indicate the documents have been considered, in the next official communication.

Referring now to the detailed Office Action, the Examiner objected to the disclosure because of alleged informalities, specifically with respect to a formula (ii) of page 3, lines 4-15, asserting that because values in the disclosed examples are half the values used in formula (ii), the formula (ii) should be rewritten as " $0.5(A_{1-x}B_x)_yCu_zO_w * 0.5(A_{1-x}B'_x)_yCu_zO_w$ " to overcome the objection. While Applicant agrees with the concept suggested by the Examiner, Applicant believes that " $0.5[(A_{1-x}B_x)_yCu_zO_w \cdot (A_{1-x}B'_x)_yCu_zO_w]$ " would better describe the concept pointed out by the Examiner. During the April 10, 2006, telephonic discussion with the Examiner, it was agreed that Applicant's alternative amendment of equation (ii) would be acceptable to overcome the objections raised in the Office Action with respect to the disclosure.

Claims 6, 8, 10, 11 and 39-42 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed, insofar as the Office may consider it to apply to the amended claims.

With respect to claims 6, 8, 10 and 11, the cancellation of these claims renders their rejection moot.

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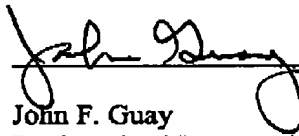
Turning next to claims 39-42, the Office asserts that claims 39 and 40 are indefinite because they both define "A" as being one rare earth element in line 11, and further that "A includes Yb," in line 13. The Office states that the open-ended transitional term "including" conflicts with recitation limiting A to a single element. In response, claims 39 and 40 are amended to replace "A" with "Yb," which is equivalent to the Examiner's suggested amendment, "A is Yb," and to further clarify that each of "B" and "B'" is at least one alkaline earth element. In a similar manner, claims 41 and 42 are amended to resolve the conflicting subject matter pointed out in the Action related to "A" being a mixture of Y and Yb. It is respectfully submitted that amended claims 39-42 fully comply with 35 U.S.C. § 112, second paragraph.

Claims 49 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,630,425. However, this rejection is rendered moot in view of Applicant's cancellation of claims 49 and 50 without prejudice or disclaimer.

Claims 6, 8, 10 and 11 were objected to under 37 C.F.R. 1.75 as being substantial duplicates of claims 45-48. As indicated above, claims 6, 8, 10 and 11 are canceled, thus rendering this objection moot.

The present application is now believed to be in condition for allowance. However, should the Examiner discover any residual issues that remain unresolved, she is invited to contact the undersigned at the number provided below if it is believed they could be eliminated through a telephonic discussion. Prompt notice of allowance is earnestly sought.

Respectfully submitted,



John F. Guay
Registration No. 47,248

NIXON PEABODY LLP
401 9th Street, NW, Suite 900
Washington, D.C. 20004-2128
(202) 585-8298 (direct)